

October 30, 2018

**Via ECF**

The Honorable Paul A. Engelmayer  
United States District Court  
Southern District of New York  
40 Foley Square, Room 2201  
New York, NY 10007

Re: *In re: Interest Rate Swaps Antitrust Litigation*, No. 16-MD-2704 (PAE)  
*This Document Relates To All Actions*

Dear Judge Engelmayer:

Pursuant to Order No. 48 (Dkt. No. 548), Counsel for Plaintiffs and Defendants jointly submit this letter to provide the Court with a brief summary of recent developments and to identify the participants on the teleconference with the Court scheduled for November 1, 2018.

**Recent Developments**

***Third-Party Discovery:*** Plaintiffs are at an impasse with third-parties Tullet Prebon and ICAP regarding their document productions, and have raised the issue with the Court. Plaintiffs have reached agreement with third-party LCH regarding its document and data production.

***Sufficiency of the Parties' Productions:*** Plaintiffs believe they have reached impasse with certain Defendants regarding the issue of whether Defendants improperly withheld responsive documents that contained agreed-upon search terms. Plaintiffs anticipate raising this issue with the Court in the near future. Defendants disagree that the parties are at an impasse and do not believe that Plaintiffs have shown anything more than a small degree of variation among Defendants with respect to the production of a small number of non-responsive or marginally responsive documents. Defendants are willing to meet and confer with Plaintiffs regarding any reasonable concerns that they might have.

***Depositions and Document Production:*** The parties continue to take depositions. Defendants believe that certain questions Plaintiffs have asked at depositions relate to dismissed claims and claims for which Plaintiffs are seeking leave to amend. In response, Defendants have objected to Plaintiffs' lines of questioning, but have permitted the witnesses to answer. Plaintiffs believe Defendants' objections are without merit. The parties are reserving all rights on these issues.

Defendants continue to produce documents with revised privilege designations for the 2010-2016 period. Plaintiffs have concerns as to the timeliness of those productions in light of ongoing depositions. Defendants are concerned about the timeliness of certain Platform Plaintiffs' productions, as certain Platform Plaintiffs have produced non-privileged documents identified in connection with deposition preparation in close proximity to the depositions of their current or former employees.

**Search Terms:** The parties have largely reached agreement regarding Tradeweb-related search terms pursuant to the Court's Order No. 44. Negotiations continue between Plaintiffs and one Defendant, but the parties expect to resolve any remaining issues by the end of the week, if not sooner.

**Privilege Logs:** Plaintiffs believe the parties are at an impasse on certain issues related to certain Defendants' privilege logs and Plaintiffs will raise the disputes with the Court before or shortly after the November 1 teleconference. Defendants disagree that they have reached an impasse with Plaintiffs, and believe they have made (and are continuing to make) reasonable efforts to address Plaintiffs' concerns.

**Amended Complaint:** Plaintiffs filed a motion for leave to amend on October 25 and are prepared to address any questions regarding the motion. Defendants anticipate that they will oppose leave to amend on the grounds, among others, that the proposed amended complaint does not cure the deficiencies in the earlier complaints and that the timing and scope of the proposed amendments would prejudice Defendants and upend the schedule.

### **Conference Participants**

The participants for Plaintiffs will be Will Sears (Quinn Emanuel Urquhart & Sullivan LLP), Michael Eisenkraft (Cohen Milstein Sellers & Toll PLLC), and Randall Rainer (Wollmuth Maher & Deutsch LLP). Daniel L. Brockett (Quinn Emanuel Urquhart & Sullivan LLP) will also be available to address any questions the Court may have about the Proposed Fourth Amended Complaint or the joint letter submitted by Plaintiffs and Goldman Sachs.

The participants for Defendants will be Richard Schwed (Shearman & Sterling LLP), Robert Wick (Covington & Burling LLP), and Eric Stephens (Jones Day). In the event that the Court has any questions regarding the joint letter submitted by Plaintiffs and Goldman Sachs, Robert Sperling (Winston & Strawn LLP) will be available.

Plaintiffs will provide the Court and Defendants with a dial-in number for the teleconference via email.

Respectfully submitted,

/s/ Daniel L. Brockett  
Daniel L. Brockett on behalf of  
Counsel for Plaintiffs

/s/ Adam S. Hakki<sup>1</sup>  
Adam S. Hakki  
Defendants' Liaison Counsel

---

<sup>1</sup> Electronic signature provided with consent in accordance with Rule 8.5(b) of the Court's ECF Rules and Instructions.